

Telecom MVP: Sheppard Mullin's Gardner Gillespie

By Jenna Ebersole

Law360, Washington (December 6, 2016, 1:51 PM EST) -- Sheppard Mullin Richter & Hampton LLP's Gardner Gillespie has a long history of representing Charter Communications before regulators and the courts at every level nationwide but this year helped shepherd the biggest deal of his career with the company's \$78 billion merger with Time Warner Cable, earning him a spot as a one of Law360's 2016 Telecom MVPs.

Gillespie, a Washington partner in the business trial practice group, counseled Charter alongside the rest of his team through the process of the multiple state and local franchise approvals. The work on the deal came as the firm represents both Charter and Time Warner Cable Inc. on a range of issues, including for cable and broadband.

The goal with the merger was to get approvals with as little cost and additional commitments as possible, avoiding litigation, Gillespie said, which was successful. The firm's litigation work helps it bring more to the table on issues like the deal.

"I think it's important that we are not simply transactional lawyers, and so we bring perspectives from having litigated a lot of issues that local governments are concerned about in regulating the telecommunications companies," he said. "I think that was and always is very important in dealing with local governments."

Gillespie said beyond himself, the focus should be on the broader "talented and dedicated team" that works to make sure any litigation occurs on their terms and their clients' terms by having working regularly with clients and thinking several steps ahead.

"Most lawyers are selected after the cars have collided, and in our case the way I look at it is that our clients put us in the cars before any accident has occurred," he said. "And so we drive the cars and sometimes we avoid litigation ... but at the very least it helps assure that the accident occurs on our terms."

MVP
TELECOM



Gardner Gillespie
Sheppard Mullin

The company also knows that clients' relationships with regulators will continue, so there is a balance between living with the regulators and "not giving up all legal leverage," he added.

Beyond the major merger Gillespie helped guide, he focuses most of his practice recently on infrastructure issues such as access to rights of way, conduit and utility poles, and municipal franchising disputes. He has handled appeals at all levels, including at federal and state trial courts from California and New York to Nebraska and Missouri.

Many of the outcomes are precedential, Gillespie told Law360, even as they occur nationwide.

"I think that's what makes most of the cases that I deal with particularly interesting ... typically you have a dispute with one municipal regulator but the result of that litigation will have an impact in many, many different jurisdictions," he said.

In one case this year, Gillespie was involved for Time Warner in settling a dispute over accusations from the city of Los Angeles that the cable giant was withholding \$5.2 million in franchise fees that the city said it was properly owed. The case began when Los Angeles sued in California federal court in 2014, seeking \$9.7 million in unpaid franchise and other fees from 2008 through 2011.

"We had a big dispute with the city of Los Angeles on franchise and [public, educational and governmental] fee issues that we successfully maneuvered toward a very satisfactory settlement," he said.

In an ongoing case for Charter subsidiary Insight Kentucky Partners II LP, Gillespie is representing the company in a complaint filed in September accusing Louisville of letting Google Fiber and AT&T operate under more lenient regulations and franchise obligations.

The firm raised equal protection and First Amendment issues in the case, Gillespie said, though litigation is typically not the goal.

"I would say that the objective of course always is to avoid litigation," he said. "It was in these cases, but ultimately if you have to litigate, you litigate to win."

Gillespie said he was drawn to telecommunications because of the combination of work it involves, including transactional, deregulatory and First Amendment-related issues.

"And I like the way that the technology is always changing, so the law is always trying to catch up," he said. "So what you're trying to do is to guide the development of the law so that it works for our clients with the development of technology."

--Additional reporting by Y. Peter Kang. Editing by Katherine Rautenberg.